

**PUBLIC MEETING
August 12, 2010
MINUTES**

Chairman Murray called the meeting to order at 9 a.m. Commissioners Derek Brown and Andy Hunthausen were present. Others attending all or a portion of the meeting included Jeff Sealey, Eric Bryson, Kelly Blake, Lindsay Morgan, Jack Walsh, Mark Simonich, Ed Maronick, DeAnn Maronick, Colleen Farnsworth, Brent Costain, Jonathan Ricks, Betsy Brandborg, Dustin Ramoie, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Resolution 2010-247 Ordering a Refund of Taxes/Fees/Assessments Paid by Atlantic Financial Group Ltd. In the Amount of \$2,117.21. (Cheryl Green)
- b. Resolution 2010-248 Ordering a Refund of Taxes/Fees/Assessments Paid by Robert E. Jewell in the Amount of \$413.90. (Cheryl Green)
- c. Resolution 2010-249 Ordering a Refund of Taxes/Fees/Assessments Paid by JKA-Heritage LLC in the Amount of \$70.99. (Cheryl Green)
- d. Agreement Between Montana Dept. of Public Health and Human Services, Addictive and Mental Disorders Division and Lewis and Clark County for County Funds Transfer for Medicaid Match in the Amount of \$55,716.00 for FY 2011.
- e. Montana National Fire Plan Grant Agreement Between Montana Dept. of Natural Resources and Conservation and Lewis and Clark County for the Tri-County Fuel Reduction Programmatic Continuation-Evacuation Routes Project in the Amount of \$285,000. (Pat McKelvey)
- f. Independent Contractor Contract Between Lewis and Clark County and MT Renewable Resource Management to Complete and Perform Services at Specified Project Locations Throughout Lewis & Clark, Jefferson and Broadwater Counties Through the Tri-County SafeFire Working Group Wildland Fuel Mitigation Program (Pat McKelvey)

Eric Bryson reported on the consent agenda and recommended approval.

No public comments were received.

Commissioner Hunthausen moved approval of the consent action items and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

Proposed Amendments to Regulations for Special Zoning District No. 40 (North Spokane Hills Planning and Zoning District). (Petitioner: Lewis and Clark County) (Planner: Lindsay Morgan). The request is designed to amend the non-conforming lot section (Section J) of the land use regulations for all properties that lie within SZD No. 40. SZD No. 40 is located north of and adjacent to Canyon Ferry Road, west of Canyon Ferry Lake and east of and adjacent to Running Deer Drive.

Commissioner Brown moved to incorporate the minutes and all public testimony from the Planning and Zoning Commission into the county commission record. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Lindsay Morgan presented the staff report and outlined the proposed amendments to the non-conforming lot Section J. The proposed amendments remove the portions of the regulations that are legally suspect, and therefore serve the public interest. The Planning and Zoning Commission recommended the text amendments.

Public hearing -

Betsy Brandborg submitted the resume of Dr. Donald Chance for the record. Dr. Chance was responsible for creating the Special Zoning District 40. She asked for the basis of the legal opinion that the 1991 version of the Zoning Regulations would be found illegal by a district court.

Commissioner Murray asked Mr. Sealey to respond at the conclusion of the public hearing.

Dustin Ramoie, 3166 Steptoe Court. Supported the text amendment; it alleviates an issue of takings of private property rights.

Jonathan Ricks, 3605 Running Deer. Shares a fence line with the Farnsworths and supported the proposed amendments. His wife, Dr. Gonzales, supported the amendments as well.

Ed Maronick, 6596 Rising Moon Road. Supported the amendments and thanked the county for correcting a mistake that happened 20-some years ago.

Colleen Farnsworth. Supported the amendments.

Hearing no other comments, the public hearing was closed.

Jeff Sealey recited the opinion of the County Attorney's Office in response to Ms. Brandborg's question. The existing regulations are most likely illegal and would be overturned by a court, if challenged, for a number of reasons; an unreasonable restraint on the transfer of the property; takings was a concern and the regulations probably removed the economic value of these lots; and the statutory requirement.

Break 9:32-9:40. The commissioners took this time to read the vita of Dr. Chance.

Commissioner Brown moved to adopt the language change as amended and recommended by the Planning and Zoning Commission. Commissioner Hunthausen seconded the motion with an amendment to adopt the conclusions of the Planning and Zoning Commission and accept the staff report. Commissioner Brown seconded the

motion. Discussion ensued regarding striking item 10.

Commissioner Hunthausen amended his motion to accept the staff report and the findings and conclusions of fact. Commissioner Brown seconded the motion. The motion carried 2-1. Commissioner Brown voted no.

Commissioner Hunthausen agreed with the statements made by Mr. Sealey and that the new language complies with the growth policy.

Commissioner Brown stated for the record that there are ways within zoning to limit the bulk requirements. If the zoning district is unhappy with the outcome they could bring language forward to modify it through petition and through support of the zoning district to address bulk requirements. Limitation on ownership is completely unacceptable.

The overall motion adopting the text amendment as amended and recommended carried 3-0.

Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 9:46 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Derek Brown


Andy Hunthausen

ATTEST:


Paulette DeHart, Clerk of the Board